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Op 1653 LFIW

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TRANSMITTAL FORM (to be used for all correspondence after initial filing)		Application Number	10/082,443
		Filing Date	February 22, 2002
		First Named Inventor	Mark ALVIS
		Art Unit	1653
		Examiner Name	A. Mohamed
Total Number of Pages in This Submission	9 + 5 References	Attorney Docket Number	437252001200

ENCLOSURES (Check all that apply)

<input type="checkbox"/> Fee Transmittal Form	<input type="checkbox"/> Drawing(s)	<input type="checkbox"/> After Allowance Communication to Group
<input type="checkbox"/> Fee Attached	<input type="checkbox"/> Licensing-related Papers	<input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences
<input checked="" type="checkbox"/> Amendment/Reply - 3 pages	<input type="checkbox"/> Petition	<input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief)
<input type="checkbox"/> After Final	<input type="checkbox"/> Petition to Convert to a Provisional Application	<input type="checkbox"/> Proprietary Information
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<input type="checkbox"/> Express Abandonment Request	<input type="checkbox"/> Request for Refund	Form PTO-1449 + copy - 2 pages
<input checked="" type="checkbox"/> Information Disclosure Statement, Supplemental - 3 pages	<input type="checkbox"/> CD, Number of CD(s) _____	5 References
<input type="checkbox"/> Certified Copy of Priority Document(s)		Return Receipt Postcard
<input type="checkbox"/> Response to Missing Parts/Incomplete Application		
<input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53		
Remarks		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm or Individual name	MORRISON & FOERSTER LLP (Customer No. 25226) Kimberly A. Bolin - 44,546
Signature	
Date	July 8, 2004

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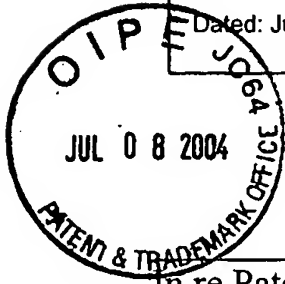
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Dated: July 8, 2004 Signature: Tia B. Zimmerman (Tia B. Zimmerman)

Docket No.: 437252001200
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE



In re Patent Application of:
Mark ALVIS et al.

Application No.: 10/082,443.

Art Unit: 1653

Filed: February 22, 2002

Examiner: A. Mohamed

For: METHODS AND COMPOSITIONS FOR
IMPROVED ARTICULAR SURGERY USING
COLLAGEN

AMENDMENT IN RESPONSE TO NON-FINAL OFFICE ACTION

MS Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

INTRODUCTORY COMMENTS

This is in response to the non-final Office Action dated June 8, 2004 (Paper No. 9), for which a response was due on July 8, 2004. Accordingly, this response is timely filed. Reconsideration and allowance of the pending claims, as amended, in light of the remarks presented herein are respectfully requested.

The Applicants note that a supplemental Information Disclosure Statement and PTO-1449 are being co-filed herewith and respectfully request review of the cited references by the Examiner prior to the first Office Action on the merits.

ELECTION

The Examiner has required restriction between:

- I Claims 1-41, drawn to a composition for the treatment of post-surgical articular or incisional pain or discomfort consisting of an aqueous dispersion of insoluble non-crosslinked type I fibrillar atelopeptide collagen and a pharmaceutical agent, classified in class 530, subclass 356.
- II Claims 42-113, drawn to a method for the treatment of post-surgical pain or discomfort in a joint(s) or abdominal or spinal or breast operation by administering a composition consisting of an aqueous dispersion of insoluble non-crosslinked type I fibrillar atelopeptide collagen and a pharmaceutical agent, classified in class 514, subclass 2+.
- III Claim 114, drawn to a catheter for use in the treatment of articular injury, wherein the catheter comprises a lumen being adapted for use in arthroscopy or arthrotomy, classified in class 604, subclass 96.01+.

Applicant hereby elects Group I (claims 1-41), and Species I, subspecies A.

Applicant expressly reserves his/her right under 35 U.S.C. § 121 to file a divisional application directed to the non-elected subject matter during the pendency of this application, or an application claiming priority from this application. Applicant further notes that the Examiner has recognized that groups I and II are linked by claim 1. The Examiner has further stated that upon indication of allowable subject matter of the claim 1, the restriction requirement as to groups I and II shall be withdrawn and any claims depending from or otherwise including all the limitations of the allowable linking claims will be entitled to examination in the present application.

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The Examiner also has requested an election of species and subspecies under 35 U.S.C. § 1.121. The Applicant hereby elects species I (anesthetics) and subspecies A (bupivacaine). Claims readable on elected species I are claims 1-10 and 18-41. The Applicant notes that claim 8 is readable on species I and subspecies A, as well as claims 9 and 27-41 as stated by the Examiner on page 4 of the Restriction Requirement. Claims 1-10 and 18-41 are readable on subspecies A.


The Applicant further notes that upon allowance of a generic claim, Applicant will be entitled to consideration of claims to additional species and subspecies as provided by 37 CFR 1.141.

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to issue. If it is determined that a telephone conference would expedite the prosecution of this application, the Examiner is invited to telephone the undersigned at the number given below.

In the event the U.S. Patent and Trademark office determines that an extension and/or other relief is required, applicant petitions for any required relief including extensions of time and authorizes the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to Deposit Account No. 03-1952 referencing docket no. 437252001200. However, the Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

Dated: July 8, 2004

Respectfully submitted,

By 
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